

**UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

SF MARKETS, L.L.C. d/b/a
Sprouts Farmers Market,

Petitioner Cross-Respondent,

v.

NATIONAL LABOR RELATIONS
BOARD,

Respondent Cross-Petitioner.

No. 16-60186

**PETITIONER CROSS-RESPONDENT SF MARKET, L.L.C.’S
MOTION FOR ISSUANCE OF MANDATE**

To the Honorable, the Judges of the United States
Court of Appeals for the Fifth Circuit:

1. On July 26, 2016, the Court granted Petitioner Cross-Respondent SF Markets, LLC d/b/a Sprouts Farmers Market’s (“Sprouts”) Renewed Motion for Summary Disposition in this case.

2. Pursuant to Fed. R. App. P. 35(c) and 40(a)(1)(B), a petition for rehearing *en banc* or for a panel rehearing was due from Respondent Cross-Petitioner National Labor Relations Board (“NLRB”) on or before September 9, 2016.

3. On that date – September 9, 2016 – the NLRB instead filed a Motion to Stay, seeking to stay the deadline for filing a petition for rehearing in this case until proceedings in related cases before the United States Supreme Court are completed.

4. The Court denied the NLRB’s motion by Order dated September 14, 2016.

5. Fed. R. App. P. 41(b) provides that “[t]he Court’s mandate must issue 7 days after the time to file a petition for rehearing expires, or 7 days after entry of an order denying a timely petition for panel rehearing, petition for rehearing en banc, or motion for stay of mandate, whichever is later.”

6. The NLRB did not seek reconsideration of the Court’s denial of its motion to stay the date for filing of a petition for rehearing, did not file any petition for rehearing, and has not moved to stay the mandate.

7. Based on the forgoing, Sprouts respectfully requests that the Court direct the issuance of a formal mandate in this case pursuant to Fed. R. App. P. 41.

8. Undersigned counsel contacted counsel for the NLRB and was informed that the NLRB takes no position on this motion.

Respectfully submitted this 5th day of October, 2016.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Petitioner Cross-Respondent SF Market, LLC's Motion for Issuance of Mandate was filed with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit using the appellate CM/ECF system, which electronically served the following:

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